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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/544,137	04/04/2006	Rudolf Fiegler	30071/41415	7719
4743 7590 08/09/2007 MARSHALL, GERSTEIN & BORUN LLP 233 S. WACKER DRIVE, SUITE 6300 SEARS TOWER CHICAGO, IL 60606			EXAMINER SHARMA, RASHMI K	
			ART UNIT 3651	PAPER NUMBER
			MAIL DATE 08/09/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/544,137

Applicant(s)

FIEGLER, RUDOLF

Examiner

Rashmi K. Sharma

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 4/4/2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 8/2/2005.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

Claim 3 is objected to because of the following informalities: it appears that claim 3 line 1 should have dependency on either claim 1 or 2. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the second reaching". There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 1, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3651

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6, 9 -11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Grilliat et al. (FR 2,576,003).

Grilliat discloses a device for the handling of objects, such as containers, particularly bottles, with comprising a rotating conveyor (3), on which an intake station (4) and a discharge station (6) are positioned, whereby the conveying section (area around 7) in the direction of transport between the intake (4) and the discharge station (6) is designed as a multiple through-pass section, wherein the multiple through-passage section has a length that corresponds to less than half the number of conveying stations of the rotating conveyor (3, see Figure 1), wherein the discharge station (6) is in the direction of transport, positioned behind the intake station (4) and directly adjacent to the intake station (4), and a processing device (7) for the containers is positioned in the multiple through-passage section, wherein the intake station (4) has an intake star wheel, an intake star wheel (4) supplied by a helical separating unit (11), a carousel (3) with an odd number of conveying stations, a discharge star wheel (6), whereby the discharge star wheel (6) is positioned, in the direction of transport, adjacent to the intake star wheel (4), whereby a double through-passage section (area around 7) the active conveying stations of which have double the spacing distance of the conveying stations of the rotating conveyor (see Figure 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7, 8, 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grilliat et al. (FR 2,576,003).

Grilliat et al. as disclosed above, fails to show wherein only every second conveying station of the rotating conveyors available upon one rotation of the rotating conveyor through the intake station, and only every second conveying station of the rotating conveyor, displaced relative to the intake station by one conveying station, can be emptied by the discharge station, wherein the rotating conveyor has an odd number of conveying stations.

It would be obvious to one having ordinary skill in the art at the time the invention was made to modify the process by which conveying stations interact with the intake and discharge stations, the number of conveying stations and the number of conveying stations depending on the user's needs and requirements.

Claims 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grilliat et al. (FR 2,576,003) in view of Humele (US Patent number 6,520,318).

Grilliat et al., as disclosed above, fails to show a testing device for the repeated, temporally spaced determination of parameters.

Humele does disclose a testing device (sensor 39) for the repeated, temporally spaced determination of parameters.

It would be obvious to one having ordinary skill in the art at the time the invention was made to add Humele's sensor to Grilliat et al.'s invention in order to provide for article presence, counting, label reading etc.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rashmi K. Sharma whose telephone number is 571-272-6918. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

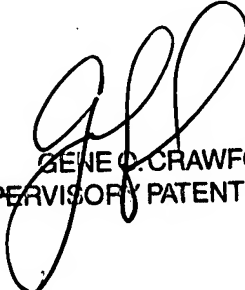
Application/Control Number: 10/544,137

Page 6

Art Unit: 3651

USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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GENE O. CRAWFORD
SUPERVISORY PATENT EXAMINER